

48A C.J.S. Judges § 277

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

IX. Disqualification to Act

C. Grounds for Disqualification

2. Interest and Relationship

a. Interest

(2) Nature and Degree of Interest

§ 277. Generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  42

Ordinarily, in order for a judge to be disqualified, the judge's interest must be in the subject matter of the litigation and not merely in a legal question involved.

Ordinarily, the interest of a judge, in order that the judge may be disqualified, must be in the subject matter of the litigation¹ and not merely in a legal question involved.² A mere interest in an abstract question that may be involved therein, and which may arise in some possible future independent litigation, not yet begun, in which the judge may have some interest, is not sufficient.³

A judge's interest in a question of law involved in a case before the judge, due to the fact that its determination will in all probability control rights or remedies which may thereafter accrue to the

judge, is not such an interest as will disqualify the judge⁴ unless it is so expressly provided by statute.⁵ However, the disqualification may extend to an interest in a question of law as well as to interest in a question of fact if it affects or determines the interest of the judge in the matter involved.⁶ A judge may be disqualified from sitting in a case where the judge is interested in the issues of fact which the judge is called on to determine although the judge's conclusion may not affect the judge's personal interest immediately.⁷

An interest in the facts which the issues make it necessary for a judge to determine, and which may tend to induce the judge to give more weight to the evidence of one party than to the evidence of the other respecting such facts, is not the interest which will disqualify.⁸

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Footnotes

- 1 Colo.—Wood Bros. Homes, Inc. v. City of Fort Collins, 670 P.2d 9 (Colo. App. 1983).
Tex.—Pena v. Pena, 986 S.W.2d 696 (Tex. App. Corpus Christi 1998).
- 2 Colo.—Kubat v. Kubat, 124 Colo. 491, 238 P.2d 897 (1951).
Ga.—City of Valdosta v. Singleton, 197 Ga. 194, 28 S.E.2d 759 (1944).
Tex.—Wagner v. State, 217 S.W.2d 463 (Tex. Civ. App. San Antonio 1948), writ refused n.r.e.
- 3 Fla.—State ex rel. Cannon v. Churchwell, 195 So. 2d 599 (Fla. 4th DCA 1967).
Tex.—Davis v. Wylie & Jackson, 241 S.W. 1114 (Tex. Civ. App. Texarkana 1922), writ granted, (Oct. 25, 1922) and aff'd, 256 S.W. 256 (Tex. Comm'n App. 1923).
- 4 Ill.—People ex rel. Illinois Federation of Teachers, AFT, AFL-CIO v. Lindberg, 60 Ill. 2d 266, 326 N.E.2d 749 (1975).
W. Va.—Forest Coal Co. v. Doolittle, 54 W. Va. 210, 46 S.E. 238 (1903).
- 5 Tex.—Grigsby v. May, 84 Tex. 240, 19 S.W. 343 (1892).
- 6 Cal.—Lindsay-Strathmore Irr. Dist. v. Superior Court of Tulare County, 182 Cal. 315, 187 P. 1056 (1920).
- 7 Ala.—City of Mobile v. Grayson, 220 Ala. 349, 125 So. 221 (1929).
- 8 Cal.—Lassen Irr. Co. v. Superior Court of Lassen County, 151 Cal. 357, 90 P. 709 (1907).